THE HONOURABLE SRI JUSTICE V.ESWARAIAH

WRIT PETITION No:16629 of 2007

DATED:03-08-2007

BETWEEN:

V.Venkata Rao.

..... PETITIONER

AND

The State of A.P.,
Rep., by its Commissioner of Prohibition and Excise,
Station Road,
Hyderabad & 2 others.

.....RESPONDENTS

ORDER:

Heard learned counsel appearing for the petitioner as well as the learned Government Pleader for Prohibition & Excise appearing for the respondents.

2. Petitioner seeks a writ of mandamus directing the respondents herein to release the vehicle bearing No.AP-27W-2476 without insisting for bank guarantee.

3. It is stated that the petitioner is the owner of the vehicle bearing No.AP-27W-2476 which was involved in transportation of 90 litres of Illicit Distilled liquor in Cr.No.19/2007-08 of Nandigama Prohibition & Excise Station of Krishna District. It is stated that confiscation proceedings are pending before the 2nd respondent-Deputy Commissioner of Excise and pursuant to the representation of the petitioner for grant of interim custody the 2nd respondent passed an order in Rc.174/2007/B2, dated 23-07-2007, rejecting the request of the petitioner for interim custody on the ground that the vehicle cannot be released on executing a personal bond of Rs.50,000/- as the petitioner has expressed his inability to give bank guarantee for the value of the said vehicle assessed by the Motor Vehicles Inspector at Rs.6,05,000/-. No doubt, in the event confiscation orders are passed by the 2nd respondent, the vehicle itself is liable to be confiscated if the

petitioner fails to pay the value of the vehicle. As the confiscation proceedings are pending, I am of the opinion that it is just and proper to give interim custody of the vehicle to the petitioner so as to mitigate the damages to the said vehicle.

4. Having regard to the facts and circumstances Writ Petition is disposed of directing the 2nd respondent to give interim custody of the said vehicle in favour of the petitioner subject to the condition that the petitioner furnishes bank guarantee of Rs.3,05,000/- (rupees three lakhs five thousand only) and executes a personal bond for the remaining value of Rs.3,00,000/- (rupees three lakhs only) undertaking the in the event of confiscation he will pay the entire value of the vehicle amounting to Rs.6,05,000/- and he will not alienate the vehicle and also produce the vehicle as and when required. No order as to costs.

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V.ESWARAIAH,J

03rd August, 2007.

Note:

Furnish C.C. of the order
within four days.

B/o
Tsy